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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

THE PEOPLE,

Plaintiff and Respondent,

v.

ALEJANDRO VASQUEZ,

Defendant and Appellant.

B234397

(Los Angeles County
Super. Ct. No. KA093310)

APPEAL from a judgment of the Superior Court of Los Angeles County,
Bruce F. Marrs, Judge. Affirmed.

Sunnie L. Daniels, under appointment by the Court of Appeal, for Defendant and
Appellant.

No appearance for Plaintiff and Respondent.

Alejandro Vasquez was convicted by jury verdict of assault with a deadly weapon and two counts of making criminal threats. He appealed. Our independent review of the record reveals no arguable issue that would aid Vasquez. We affirm the judgment of conviction.

FACTUAL AND PROCEDURAL SUMMARY

Appellant is an active member of the Wicked Insane Diablos (also referred to as “Dub I.D.”), a Rowland Heights gang. On a Sunday evening, November 14, 2010, Marcelo Pantoja was visiting with his neighbor on the front lawn of his house in Rowland Heights. They heard a loud commotion in the street. Mr. Pantoja went toward the street to see what was happening. He saw a group of eight to ten men and two women walking in the street, yelling and being unruly. Some of the men had shaved heads and wore baggy pants and white t-shirts. Mr. Pantoja later identified appellant as part of the group. Members of the group, including appellant, yelled, “Wicked Insane Diablos.” They also said, “This is our bar[r]io” and asked what Mr. Pantoja was looking at, or doing there. He responded by telling the group to get out of the area and said, “We don’t play that shit here.” At that point, some of the group sat down in the street. A man other than appellant approached Mr. Pantoja and repeated that this was his barrio, that this was Dub I.D. Mr. Pantoja challenged the man, saying it was his neighborhood, his block, and that they did not “play that gang shit.” His wife, Henrietta Pantoja, called 911.

During this verbal confrontation, appellant was dancing around, throwing gang signs, yelling that this was their barrio and “this is how we roll.” The other man punched Mr. Pantoja, and Mr. Pantoja fought back. Mr. Pantoja fell to the street while fighting, and was kicked and hit by other members of the group. Appellant came at Mr. Pantoja as if he was going to hit him. Mr. Pantoja grabbed appellant and got him to the ground, where they exchanged blows. The first man, then appellant, got away from Mr. Pantoja. While still receiving blows from others, Mr. Pantoja tried to stand. He was hit on the side of the head by a large rum bottle. Then the members of the group walked away.

In the meantime, Mrs. Pantoja came out from the garage to see what was happening. The two women members of the group assaulted her. She was hit in the face

by one of them. As they were leaving, appellant said “You know what, we’re gonna be back We’re gonna kill you. We’re gonna bring back our whole gang.” Mr. Pantoja sustained cuts, scrapes, a black eye, a cut over his eye, and problems with flashing lights in his eye. Appellant, another man, and two females were apprehended a short time later by responding officers, about two blocks from the Pantoja home. The Pantojas identified appellant at a field identification as one of the men involved in the assault.

Appellant was arrested. At booking, the officer noticed what appeared to be blood on appellant’s white shoes, but they were not tested for blood. Appellant was charged with assault with a deadly weapon (Pen. Code, § 245, subd. (a)(1)),¹ and two counts of making criminal threats (§ 422). As to each offense, it was alleged that it was committed for the benefit of a criminal street gang with the specific intent to promote and further the criminal conduct of gang members (§ 186.22, subd.(b)(1)(B).)

A plea offer by the prosecution was rejected by appellant before trial. Mr. and Mrs. Pantoja, their neighbor, and a responding officer testified. Los Angeles County Deputy Sheriff Robert MacKenzie testified as an expert on the Wicked Insane Diablos. He had seven prior contacts with appellant, who identified himself to Deputy MacKenzie as a member of the Wicked Insane Diablos with the moniker “Raskal.” Deputy MacKenzie testified that one member of the gang had a prior conviction for felony vandalism for repeatedly vandalizing places in Rowland Heights with the gang’s name. He also testified that two other members of the gang had been convicted of assaulting two people whom they mistakenly believed to be members of a rival gang. According to Deputy MacKenzie, these crimes were committed for the benefit of the Wicked Insane Diablos. Appellant did not offer a defense.

Appellant was convicted as charged and the gang special allegations were found true. Probation was denied. Appellant was sentenced to the upper term of four years on the assault with a deadly weapon count, plus five years for the gang enhancement. A consecutive term of one-third the midterm of 24 months (eight months) was imposed on

¹ Statutory references are to the Penal Code, unless otherwise indicated.

count two and the gang enhancement was stayed. The sentence on count 3 was two years, and that sentence and the gang enhancement were stayed. Appellant was ordered to pay a \$1,800 fine (§ 1202.4, subd.(b)), a \$120 court security fee (§ 1465.8, subd. (a)(1)), and a \$90 criminal conviction assessment fee (Gov. Code, § 70373). A \$1,800 parole restitution fine (§ 1202.45) was imposed and stayed, with the stay to become permanent upon successful completion of parole. Appellant was ordered to register as a gang member (§ 186.30). He received 214 total days of custody credit (107 days of actual custody and 107 days of conduct credit). The court reserved jurisdiction to determine the amount of victim restitution. Appellant filed a timely appeal.

DISCUSSION

We appointed counsel to represent appellant on appeal. Appointed counsel filed an appellate brief raising no issues, but asking this court to independently review the record on appeal pursuant to *People v. Wende* (1979) 25 Cal.3d 436, 441–442. We advised appellant that he had 30 days within which to submit by brief or letter any contentions or arguments he wished this court to consider. No response has been received.

We have independently reviewed the record in accordance with *People v. Wende*, *supra*, 25 Cal.3d at pages 441–442, and find no arguable issues that could aid appellant.

DISPOSITION

The judgment is affirmed.

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EPSTEIN, P. J.

We concur:

WILLHITE, J.

SUZUKAWA, J.